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| | | | |
|-----------------------------------------------------------------------------------------|----------------------|------------------------|-------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 09/836,884 | |
| | Filing Date | 4/17/2001 | |
| | First Named Inventor | Denis | |
| | Art Unit | 2823 | |
| | Examiner Name | Nguyen, Khem D. | |
| Total Number of Pages in This Submission | 3 | Attorney Docket Number | H-303 |

ENCLOSURES (Check all that apply)

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below): |
| <div>RECEIVED MAR 09 2004</div> <div>Remarks</div> | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|-------------------------|----------------------|--|--|
| Firm or Individual name | David J. Cole | | |
| Signature | <i>David J. Cole</i> | | |
| Date | October 29, 2003 | | |

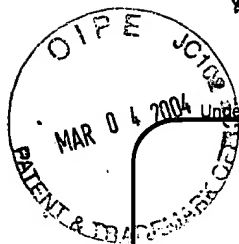
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

| | | | |
|-----------------------|----------------------|------|------------------|
| Typed or printed name | David J. Cole | | |
| Signature | <i>David J. Cole</i> | Date | October 29, 2003 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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61

APR 15 2004

Approved for use through 08/30/2003. OMB 0651-0031
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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

| | |
|------------------------|-----------------|
| Application Number | 09/836,884 |
| Filing Date | 4/17/2001 |
| First Named Inventor | Denis |
| Art Unit | 2823 |
| Examiner Name | Nguyen, Khem D. |
| Attorney Docket Number | H-303 |

Total Number of Pages in This Submission

48

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MAR 09 2004**ENCLOSURES (Check all that apply)**

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| <input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please Identify below): |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Remarks

The calculation of the number of pages includes all three copies of the
Appeal Brief and the four pages of attachments to the Petition.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | |
|-------------------------------|----------------------|
| Firm or Individual name | David J. Cole |
| Signature | <i>David J. Cole</i> |
| Date | March 2, 2004 |

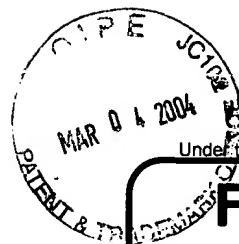
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| Typed or printed name | David J. Cole | | |
| Signature | <i>David J. Cole</i> | Date | March 2, 2004 |

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 640

Complete if Known

| | |
|----------------------|--------------|
| Application Number | 09/836,884 |
| Filing Date | 4/17/2001 |
| First Named Inventor | Denis |
| Examiner Name | Nguyen, K.D. |
| Art Unit | 2823 |
| Attorney Docket No. | H-303 |

RECEIVED
MAR 0 9 2004**METHOD OF PAYMENT** (check all that apply)☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit Account Number
Deposit Account Name

501162

E Ink Corporation

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1001 | 770 | 2001 | 385 | Utility filing fee | |
| 1002 | 340 | 2002 | 170 | Design filing fee | |
| 1003 | 530 | 2003 | 265 | Plant filing fee | |
| 1004 | 770 | 2004 | 385 | Reissue filing fee | |
| 1005 | 160 | 2005 | 80 | Provisional filing fee | |
| SUBTOTAL (1) | | | | | (\$) |

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | | | | | | | |
|--------------------|--|--------------|--|----------------|--|----------|--|
| Total Claims | | Extra Claims | | Fee from below | | Fee Paid | |
| Independent Claims | | -20** = | | X | | | |
| Multiple Dependent | | -3** = | | X | | | |

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------------------------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 | |
| 1201 | 86 | 2201 | 43 | Independent claims in excess of 3 | |
| 1203 | 290 | 2203 | 145 | Multiple dependent claim, if not paid | |
| 1204 | 86 | 2204 | 43 | ** Reissue independent claims over original patent | |
| 1205 | 18 | 2205 | 9 | ** Reissue claims in excess of 20 and over original patent | |
| SUBTOTAL (2) | | | | | (\$) |

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

| Fee Code | Fee (\$) | Fee Code | Fee (\$) | Fee Description | Fee Paid |
|----------|----------|----------|----------|----------------------------------------------------------------------------|----------|
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for ex parte reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 420 | 2252 | 210 | Extension for reply within second month | 475 |
| 1253 | 950 | 2253 | 475 | Extension for reply within third month | |
| 1254 | 1,480 | 2254 | 740 | Extension for reply within fourth month | |
| 1255 | 2,010 | 2255 | 1,005 | Extension for reply within fifth month | |
| 1401 | 330 | 2401 | 165 | Notice of Appeal | |
| 1402 | 330 | 2402 | 165 | Filing a brief in support of an appeal | 165 |
| 1403 | 290 | 2403 | 145 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,330 | 2453 | 665 | Petition to revive - unintentional | |
| 1501 | 1,330 | 2501 | 665 | Utility issue fee (or reissue) | |
| 1502 | 480 | 2502 | 240 | Design issue fee | |
| 1503 | 640 | 2503 | 320 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 770 | 2809 | 385 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 | 770 | 2810 | 385 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| 1801 | 770 | 2801 | 385 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 640

SUBMITTED BY

(Complete if applicable)

| | | | | | |
|-------------------|----------------------|-----------------------------------|---------------|-----------|--------------|
| Name (Print/Type) | David J. Cole | Registration No. (Attorney/Agent) | 29629 | Telephone | 617-499-6069 |
| Signature | <i>David J. Cole</i> | Date | March 2, 2004 | | |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS.

SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/836,884
Confirmation No. 5188
Application of: Denis et al.
Filed: April 17, 2001
Group Art Unit: 2823
Examiner: Nguyen, K.D.

Attorney Docket No.: H-303
Customer No.: 26245

RECEIVED
MAR 09 2004

Cambridge, Massachusetts
March 2, 2004

**CONDITIONAL PETITION TO ACCORD DATE OF
FACSIMILE TRANSMISSION AS DATE OF FILING**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A final Office Action was issued in connection with the above application on July 29, 2003. On October 29, 2003, the undersigned attorney filed by facsimile to facsimile number 703-746-9179 (the number given in the Office Action) a Notice of Appeal (in duplicate) and a Transmittal Form (Form PTO/SB/17). It is respectfully noted that this facsimile was sent prior to the effective date of the Office's institution of a central facsimile number. The originals of these documents are being filed with this Petition, together with the original confirmation sheet from the facsimile machine confirming the transmission.

The undersigned attorney is now filing the Appeal Brief, together with an appropriate Petition for Extension of Time. However, upon checking the status of this application yesterday via USPTO Direct, the undersigned attorney was surprised to discover that the aforementioned Notice of Appeal did not appear in the listing of file contents. Furthermore, it does not appear that the fee for the Notice of Appeal has been charged to the assignee's Deposit Account. On the other hand, the undersigned attorney

Denis et al.
Serial No. 09/836,884
Conditional Petition of March 2, 2004
Page 2

has not received a Notice of Abandonment despite the expiry on January 29, 2004 of the statutory period for responding to the final Action. Accordingly, the applicants are in some doubt whether the Notice of Appeal has ever been entered in this case. If the Notice of Appeal has not in fact been entered, the applicants hereby petition, pursuant to 37 CFR 1.8(a) for entry of the Notice of Appeal as of October 29, 2003, the date on which the Notice of Appeal was transmitted to the Office with a Certificate as required by that Rule. The undersigned attorney hereby certifies that he personally prepared the Notice of Appeal and accompanying Form PTO/SB//21 and personally transmitted them to the Office on October 29, 2003.

It is believed that no fee is required in connection with this Petition. If, however, the Office determines that a fee is required, please charge the fee to the assignee's Deposit Account 501162, of which the undersigned attorney is an authorized signatory.

Respectfully submitted,



David J. Cole
Registration No. 29629

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Cambridge MA 02138-1002

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Facsimile (617) 499-6200
E-mail dcole@eink.com